

MEETING SUMMARY

REGIONAL LAW, SAFETY AND JUSTICE COMMITTEE (RLSJC)

Thursday, March 27, 2014

7:30 AM – 9:00 AM

Bertha Knight Landes Room, Seattle City Hall

Theme: I 502 Regulation Update and Public Defense, Continued

This meeting recapped the 2014 State legislative session, provided an update on I-502 implementation, and provided an overview of recent changes to how King County provides public defense.

2014 State legislative Session Recap

Genesee Adkins, King County Director of Government Relations

Scott Plusquellec, Seattle Office of Intergovernmental Relations

Ms. Adkins explained that the McCleary decision, which mandates full funding for K through 12 education, and the State Supreme Court's April 30th deadline for the legislature to present a funding plan set the tone for the session. Preoccupation with this issue and the related financial constraints associated resulted in a session in which not much was accomplished, even on major issues.

No bills of substance related to marijuana were passed. Bills that would have helped bring existing medical cannabis statute into line with I-502 and addressed tax revenue issues were more complicated than expected and did not receive a vote. These bills are expected to come back next session.

Roughly \$2-2.5 million of the \$6.6 million cut to King County mental health funding was restored, but the \$3.7 million cut to substance abuse funding from last year is unchanged.

There were no changes to the Mental Illness and Drug Dependency statute and the ramp down of supplantation will continue.

Budget items relevant to the justice system included:

- The steering committee for the SCOMIS replacement project was changed to remove King and Pierce Counties' roles. A proviso requires counties pay for data exchange with the State system if they are not part of the SCOMIS replacement project. This affects Pierce and King counties.
- There was a \$411,000 or 50 percent cut to payment to county clerks for Legal Financial Obligation collection.
- Support for the Criminal Justice Training Account was cut \$150,000, under the assumption that local jurisdictions would pay 25 percent of training costs.
- There was a small investment made to upgrade the online system for civil legal aid and increases for the legal costs of defending minors in dependency cases.
- There is \$1.6 million in the Department of Corrections budget to fund housing for women at the Yakima facility. No funding for men or in other counties. There is \$300,000 to study jail capacity.
- There is \$1.5 million in Public Health for an educational campaign to deter youth from using e-cigarettes, tobacco and marijuana.
- The Washington Immigration Project had \$100,000 restored.

Scott Plusquellec

Mr. Plusquellec discussed several bills that did pass and are of interest to the justice system:

- HB1651 – Provides methods to seal juvenile records more consistently and easily.
- SB5064 – Revises juvenile sentencing standards to eliminate mandatory life terms for youth 16 to 18 and directing the courts to revisit existing cases where youth were sentenced to life terms.
- HB1840 – Prohibits people subject to domestic violence protection orders, no contact orders and restraining orders from holding a gun.
- HB2164 – Requires juveniles who had a firearm when they committed a crime to attend an intervention program if one is available in the county.
- HB1791 – Makes human trafficking a first degree offense when force is used.
- SB6017 – Allows local jurisdictions to retain 90 percent of seized and forfeited property in child abuse and sex trafficking cases to fund increased enforcement.
- HB1292 – Allows a victim of trafficking, promoting prostitution in the first degree, or promoting commercial sex abuse of a minor to vacate the record of a related prostitution conviction regardless of certain other factors.
- SB6339 – Creates a new class C felony for threatening a person's immigration status in involuntary servitude cases.
- HB2789 – Stipulates how local jurisdictions can use drones with extra ordinary sensing devices. (Note: the governor subsequently vetoed this bill and set up a special taskforce to investigate the issue.)
- HB2468 – Establishes a work group to study how long jurisdictions should preserve biological, or DNA evidence. Legislation is expected to result from the work group's efforts

Mr. Plusquellec also discussed bills that did not pass, but are expected to return next session:

- HB2545 – Would limit an employer's ability to use previous felony convictions in the hiring process.
- HB2399 – would create a "certificate of opportunity" to aid the re-entry process and reduce recidivism for individuals convicted of a crime.
- SB6011 – Would make the "knock-out game" where people assault strangers while being video taped a felony offense and make the videographer culpable.

Update on I-502 Implementation, Marijuana Licensing, and Medical Marijuana

Alan Rathbun, WSLCB Licensing and Regulations Director

Mr. Rathbun is the director of the Washington State Liquor Control Board (WSLCB), which is charged with processing new applications and renewal requests for alcohol and marijuana licenses. He provided an update on the process of issuing marijuana licenses under I-502, which has been complex and challenging.

The WSLCB had expected to receive approximately 2,000 applications for marijuana licenses, but instead received 5,201 Master Applications and 6,987 Privileges Applications. As a result, the processing of applications is taking longer than anticipated as the Board undertakes a rolling review to ensure that applications are in compliance with the initiative and State law.

Mr. Rathbun provided an overview of the application review process. Local authorities have the opportunity to approve or object to an application within 20 days of WSLCB notification. If local authorities do not respond within 20 days, they are viewed as neutral. Objections must be supported and cannot be based on local law. Licenses can be denied, suspended or canceled based on 16 elements

defined in Washington Administrative Code 314-55-050. Applicants have the right to an administrative hearing. The Board issues the final order, which can be appealed in Superior Court.

I-502 provided for 334 licenses statewide; there were 2,210 applications. The WSLCB will perform a pre-screening of all applicants and then will conduct a lottery with those who has passed the pre-screen.

Some local jurisdictions have passed a moratorium or an out-right ban on retail marijuana locations within their boundaries. The Board is seeking feedback on how local restrictions and the WSLCB process overlap.

As of March 27, 2014, one producer license and six producer/processor licenses had been issued.

The WSLCB has created a process that will track every marijuana plant from the time it is planted through the retail process. The system is similar to how agricultural products are tracked throughout the country. There will be a report when a plant is moved or trimmed and third party testing at certain stages of production and processing are required. The goal is “traceability” of all marijuana plants in the state.

The Board is in the beginning stages of developing educational literature with the Department of Public Health. There is a conundrum in that the educational material will be funded by taxes on the sale of marijuana, which have not yet been collected.

An audience member asked how the Board is addressing the irony pointed out recently by author Michelle Alexander: when it is illegal a disproportionate number of brown and black people have been arrested for the use, production and sale of marijuana. Now that it is legal, the production and sale of marijuana is dominated by middle and upper class white people. Mr. Rathbun responded that there is no clear answer on how to address this irony.

Mr. Rathbun concluded by highlighting some of the current and pending issues the Board is working through:

- Failure to pass a Medical Marijuana regulatory legislation will be an item for further discussion.
- A mechanism for processor to processor sales as part of the production process was passed by the 2014 legislature and rules pertaining to that process must be drafted.
- The same bill that permitted processor to processor sales also defined the THC content in an infused product and a concentrate. Rules may need to be drafted around that issue.
- The Attorney General’s opinion outlining the right of local governments to ban I-502 businesses in their jurisdiction will certainly impact the rollout of the industry.

Please consult that “I-502 – Overview KingCo RLSJF 03 27 14” PowerPoint on the RLSJC webpage or the WSLCB’s website www.liq.wa.gov for more details.

King County Department of Public Defense Transition

David Chapman, Director, Acting Department of Public Defense (DPD)

Lisa Daugaard, Deputy Director, DPD

Mr. Chapman explained that since he joined King County as the director of the then Office of Public Defense in July 2012 he has been faced with the daunting change management challenge of transitioning from a non-profit contract model to an in-house model for providing public defense in King County. The change is a fundamental shift from how King County provides public defense services and has required

significant negotiation and political consensus to achieve. It has been a challenge for many of the non-profit public defense agencies' attorneys and staff who valued not being government employees because it allowed them to tell their clients that they were truly independent.

The transition was mandated as a result of the State Supreme Court's August 2011 ruling in *Dolan v. King County*, which concluded that the four non-profit public defense agencies were "arms and agents" of the County and that their employees were, therefore, employees of the County and entitled to retirement benefits. The case was remanded to Pierce County Superior Court, where the County and plaintiffs reached a settlement agreement that resulted in making all 350 plus non-profit public defense agencies King County employees on July 1, 2013.

Mr. Chapman reported that while it has been challenging for County leadership and stressful for employees, there was no impact to clients as a result of the transition. No client lost an attorney, nor was any case delayed as a result of the July 1 transition.

Part of the transition process was political in that it required the King County Council to engage in a public conversation about the County's values for public defense. The result of the conversation was a Charter amendment which enshrines independence, accountability, quality, and equity as the top priorities for the new Department of Public Defense. The Charter amendment was approved by the voters in November 2013.

The Charter amendment created an Advisory Committee to provide advice for the new Department of Public Defense. The Advisory Committee is being formed now. One of its first tasks will be to recommend three people to the Executive to be the County's Public Defender and to direct the department. The Council will then approve the Executive's nominee.

Ms. Dugaard, who was the deputy director of The Defender Association and spends half her time running the Racial Disparity Project for the Public Defender Association, was recently hired to be the deputy director of the Department of Public Defense. Ms. Dugaard noted that the County has been welcoming to former non-profit employees and that everyone is striving to build the best County in-house public defense department they can. She added that public defenders are looking for ways to preserve their adversarial autonomy as it relates to the County.